Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Ref.: OL ZWE 3/2021
(Please use this reference in your reply)

17 December 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 41/12, 43/4, 43/16 and 40/16.

In this connection, we would like to offer the following comments on the "Private Voluntary Organisations Amendment Bill, 2021" (hereinafter the "Amendment Bill"). If adopted into law in its current version, this bill will have grave consequences for the exercise of civil and political rights, including the right to freedom of association, of Private Voluntary Organisations (PVOs) in Zimbabwe.

We welcome the opportunity to submit these comments in light of international human rights standards and best practices on the rights to freedom of association, and we stand ready to engage further with your Excellency's Government on this matter.

According to the information received, on 31 August 2021, the Council of Ministers approved the Amendment Bill, which provides for amendments to several provisions of the Private Voluntary Organisations Act [Chapter 17:05] (hereinafter the "PVO Act") currently in force. The Amendment Bill was published in a Government Gazette dated 5 November 2021 [GN 3107 of 2021].

As stated in the memorandum of the Amendment Bill, the central purpose of the reforms is to bring Zimbabwe in compliance with the Financial Action Task Force (FATF) recommendations regarding money laundering and terrorist financing. Specifically, the Amendment Bill seeks to comply with FATF recommendations under technical compliance raised in Zimbabwe's Mutual Evaluation Report. In its 2016 review, the Eastern and Southern Africa Anti-Money Laundering Group (ESAAM) found Zimbabwe to be in non-compliance with Recommendation 8, regarding non-profit organizations. As a result, Zimbabwe was placed under a monitoring programme in October 2018. A second stated purpose of the Amendment Bill is "to streamline administrative procedures for [PVOs] to allow for efficient regulation and registration." Finally, a third stated purpose is to "ensure [PVOs] do not undertake political lobbying."

1. Applicable International and Human Rights Law Standards

Before addressing our specific concerns with the Amendment Bill, we respectfully call your Excellency's Government's attention to the competent international human rights law provisions enshrined in the International Covenant on Civil and Political Rights (ICCPR). Article 22(1) of the ICCPR, ratified by Zimbabwe on 13 May 1991, states that "everyone shall have the right to freedom of association with others." Pursuant to Article 2 of the ICCPR, States have a responsibility to take deliberate, concrete and targeted steps towards meeting the obligations recognized in the respective Covenants, including by adopting laws and legislative measures as necessary to give domestic legal effect to the rights stipulated in the Covenants and to ensure that the domestic legal system is compatible with the treaties.

Article 22(2) ICCPR provides that any restrictions must be "prescribed by law" and "necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others." For a restriction to meet the ICCPR requirement of being "prescribed by law," it imposed must have a formal basis in law, as must the mandate and powers of the restricting authority. The law itself must be publicly accessible and sufficiently precise to limit authorities' discretion and enable an individual to assess whether or not his or her conduct would be in breach of the law, and also foresee the likely consequences of any such breach.[1] To meet the requirement that a restriction be "necessary in a democratic society," the restriction must be least intrusive instrument among those which might achieve to one of the legitimate aims enumerated above. In determining the least intrusive instrument to achieve the desired result, authorities should consider a range of measures, with prohibition remaining a last resort.[2] The word "necessity" means that there must be a "pressing social need" for the interference. When such a pressing social need arises, States must then ensure that any restrictive measures fall within the limit of what is acceptable in a "democratic society".[3] To conform to the principle of proportionality, any restriction must be appropriate and narrowly tailored to achieve their protective function.[4] The onus of establishing the necessity and proportionality of the restriction always rests on the State.[5]

Article 19 of the ICCPR guarantees the right to freedom of expression, which includes "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice", and protects, inter alia, political discourse, commentary on one's own or public affairs, canvassing, discussion of human rights and journalism. As stipulated by the Human Rights Committee in its General Comment 34, the enjoyment of the right to freedom of expression forms the basis for the enjoyment of other rights, including the right to freedom of association (CCPR/C/GC/34). Under Article 19 (3) of the ICCPR, any restriction on the right to freedom of expression must be: (i) provided by law; (ii) serve a legitimate purpose; and (iii) be necessary and proportional to meet the ends it seeks to serve. In this connection, we recall that the Human Rights Council, in its Resolution 12/16, called on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion

1 HRC/31/66, para. 30.
2 HRC/31/66, para. 30.
3 HRC/20/27 para. 17.
4 HRC/31/66, para. 30.
5 HRC/41/41, para 49.

of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

In addition, we refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, the Declaration reaffirms each State's responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, including every person's right, individually and in association with others, "at the national and international levels […] to form, join and participate in non-governmental organizations, associations or groups" and "to solicit, receive and utilise resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means" (A/RES/53/144, art. 5).

We further would like to recall that international human rights obligations remain fully applicable in the context of counter-terrorism, including in the enactment of measures to counter the financing of terrorism. The financing of terrorism has been a longstanding concern for States as demonstrated by the agreement on the 1999 International Convention for the Suppression of the Financing of Terrorism, aimed at criminalizing acts of financing terrorism and which was ratified by Zimbabwe on 29 September 2004. Thenceforth, several Security Council resolutions have expressly called for the criminalization of terrorism financing, including the landmark Security Council Resolution 1373 and Security Council Resolution 2462, the first comprehensive resolution addressing the prevention and suppression of terrorism financing. The latter resolution "[d]emands that Member States ensure that all measures taken to counter terrorism, including measures taken to counter the financing of terrorism [. . .] comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law."

Furthermore, the Financial Action Task Force (FATF), an inter-governmental body that sets international standards for the prevention of money laundering and terrorist financing, has developed non-binding recommendations aimed at countering terrorist financing. In particular, Recommendation 8 provides guidance to States on the laws and regulations that should be enacted to oversee and protect the subset of NPOs that have been identified as being vulnerable to terrorist financing concerns (Recommendation 8). These measures must be "focused and proportionate"; "a 'one size fits all' approach to address all NPOs is not appropriate." FATF has reaffirmed that State compliance with Recommendation 8 should be implemented "in a manner which respects countries obligations under the Charter of the United Nations and international human rights law," including the State obligation to promote universal respect for, and observance of, fundamental human rights and freedoms, such as freedom of expression, religion or belief and freedom of peaceful assembly and of association." The aim of FATF is to establish an effective institutional framework for the implementation of combating money laundering and the financing of terrorism policies for all sectors, rather than singling out the NPO sector for more stringent regulations that incapacitate the sector and quell the freedoms of association and expression.

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has previously called on the FATF and FATF-style regional bodies to implement human rights benchmarking and guidance with similar levels of specificity and comprehensiveness as the recommendations addressing financial measures to facilitate human rights-compliant implementation.[6] The application and enforcement of "soft law" counter-terrorism standards, such as the FATF recommendations, should not function in a *de facto* undermining of binding international law norms.[7]

With the above consideration, any legislation and government policy relevant to associations must clearly define the scope of the powers granted to regulatory authorities. Moreover, international best practice dictates that regulatory authorities should undertake to implement such law and policy in an impartial manner and with a view to protecting and securing the right to freedom of association. Additionally, states should consult associations and their members in a meaningful and inclusive way when introducing and implementing any regulations or practices concerning their operations (CCPR/C/GC/34; para. 18). In this regard, we recall that the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples' Rights also stipulate that national legislation on freedom of association shall be drafted to facilitate and encourage the establishment of associations and promote their ability to pursue their objectives. Such legislation shall also be created with meaningful consultation with civil society.

2. Issues of concern

a. Definition of PVOs and restrictions to Trusts and *Universitas* organizations

The Amendment Bill amends the existing definition of "private voluntary organization" in Section 2(1) of the PVO Act. Currently, these types of organizations are understood as "any body or association of persons, corporate or unincorporated, or any institution" which pursue certain specified objectives, such as "provision for material, mental, physical and social needs of persons or families"; "the rendering of charity to persons or families in distress"; "the provision of funds for legal aid", or "other objects as may be prescribed". The Bill includes to the definition any "legal person, legal arrangement" and also removes some existing exemptions of what is to be considered a PVO. However, it does not define what constitutes "legal person" and "legal arrangement" under the Act.

We are concerned this might create uncertainty about the law's scope and make it difficult for organizations to discern their legal obligations and act accordingly. This could also lead to broad interpretations from relevant administrative and judicial bodies, giving them wide discretionary powers to apply the law and impose burdensome requirements on a diverse group of community and informal associations that are currently excluded from regulation. In accordance with Article 22 of the ICCPR, a law may not give broad discretion to those charged with its execution and instead provide sufficient guidance on how to implement it. By not providing clearly and unambiguously drafted definitions of the scope of the PVO Act, the Amendment Bill

[6] A/74/335, para. 37.
[7] *Ibid*. para. 38

would fail to meet the legality requirement for permissible restrictions of the right to freedom of association under international law.

Clause 2 of the Amendment Bill also reforms exemptions for common law *universitas* organisations and Trusts registered before the High Court, which are currently excluded from registering under the PVO Act. If the Amendment Bill is passed, *universitas* organizations and these types Trusts will be subjected to the registration requirements, control and regulation by the Registrar and the Minister. In particular, the Bill introduces new requirements to the operations of trusts registered before the High Court. According to proposed Section 2(4), if the Registrar "has a reasonable suspicion that any trust registered with the High Court […] is collecting contributions from the public or outside the country" for purposes specified in the definition of private voluntary organizations, the trustees are required to swear not to collect contributions from the public or outside the country under threat of imprisonment up to six months. Trustees are further required to register as a PVO within 30 days of receiving notice from the Registrar.

We are particularly concerned that these provisions may serve as basis for restricting the operation of many NGOs, including human rights groups, currently operating as *universitas* organizations or Trusts under the Deeds Registries Act. In his country report after his visit to Zimbabwe, the Special Rapporteur on the rights to freedom of peaceful assembly and of association indicated that "considering the excessive limitations, multiple challenges and harsh sanctions provided in the Private Voluntary Organizations Act, many non-governmental organizations have resorted to register as trusts under the Deeds Registries Act. Trusts can pursue unlimited objectives, the only limitation being the wishes of the trustees in the trust deed. Although the process to establish a trust is more costly, it is more expeditious and allows associations greater flexibility to work on different issues." (A/HRC/44/50/Add.2, para. 94)

b. <u>High-risk assessments and designation by the Minister</u>

The Bill further amends section 2 of the PVO Act, with the insertion of a new subsection regulating the designation of high-risk PVOs. Under the new provisions, the Minister will undertake a risk assessment of all PVOs at least once every five years. Based on a risk assessment, the Minister may designate certain sectors or types of PVOs at "high-risk of or vulnerable to misuse by terrorist organizations whether as a way for such terrorist organizations to pose as legitimate entities; or to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; or to conceal or obscure the clandestine diversion of funds intended for legitimate purposes, but diverted for terrorist purposes". The new provisions empower the Minister to require their registration as well as other "additional or special requirements, obligations or measures […] in order to mitigate against such risk or vulnerability."

FATF Recommendation 8 has clarified that a risk assessment of the NPO sector requires countries to first identify which *subset* of NPOs is at risk of terrorist financing abuse, before then undertaking CFT measures that are "risk-based," "targeted," "proportionate" and "effective" in light of those empirically assessed, differentiated sub-sectoral risks. We are concerned that the new provisions in section 2 of the PVO Act do not clarify how they would be enforced in this manner. In particular, the

provisions fail to establish a clear process for determining if a type of organization is "high risk or vulnerable to terrorist activities or financing." Such a lack of clarity confers state authorities an overly broad margin of discretion to unduly interfere with the right to freedom of association. The amendment does not provide objective criteria nor grounds on which the assessment will be carried out. It further fails to provide for safeguards that can protect PVOs from unfair treatment and harassment. We are particularly concerned that civil society groups working on issues of governance and human rights could be especially targeted.

The ambiguity of the risk assessment designation as provided in the Amendment Bill is particularly worrisome in light of the broad power granted to the Minister to "prescribe such additional or special requirements, obligations or measures" to a high-risk entity. The power to "revoke licensing or registration of a non-compliant private voluntary organization or to order removal of a director, trustee, employee or other office bearer of a private voluntary organizations" may have a particular chilling effect on civic space. The powers granted to regulatory authorities to comply with FATF Recommendation 8 should be carefully limited and explicitly listed. Specifically, FATF has stated that "it is […] important that the measures taken do not disrupt or discourage legitimate charitable activities and should not unduly or inadvertently restrict NPOs' ability to access resources, including financial resources, to carry out their legitimate activities" (FATF Best Practices Paper).

Furthermore, we would like to express grave concerns over the severe penalties imposed by the Amendment Bill, including imprisonment, for non-compliance with the Minister's prescriptions. We reiterate that circumstances where criminal sanctions apply to associations should remain on an exceptional basis, proportional and narrowly construed.

c. Power to replace PVO's Executive Committee

Pursuant to Section 21 in the Amendment Bill allows for the suspension of a PVO's executive committee under certain circumstances, providing wide-ranging powers to national authorities to interfere with the governance of PVOs. This new provision establishes that the Minister may make an application to the High Court to suspend all or any of the members of the executive committee of a registered PVO whenever he/she finds that "it is necessary to do so in the public interest" or where the "maladministration of the organization is adversely affecting the activities of the organization." The Minister may further appoint trustees to run the organization for up to 60 days pending the election of the new executive committee, or may temporarily appoint one or more provisional trustees who will have all the same powers as the executive committee.

The circumstances under which the Minister may suspend an executive committee are extremely vague and have the potential to cover a broad range of PVO activities. Terms such as "maladministration of the organization" and "necessary or desirable in the public interest" remain overly broad and vague, while offering unchecked discretion to restrict the activities of PVOs to the Minister, a political appointee. Meanwhile, the Minister is empowered to appoint provisional trustees to run the PVO, who shall be paid a monthly salary from the funds of the organization for as long as he or she holds office. The High Court does not have to approve such provisional

trustees, and their decisions will not be invalidated, even in cases where the High Court refuses to appoint the suggested trustees. We further note with concern that the Amendment Bill does not set forth an appeal procedure in these circumstances.

All of these provisions raise serious concerns about the ability of PVOs to function truly independently, free from State interference. The ACHPR Guidelines on Freedom of Association and Assembly in Africa state that "Associations shall be self-governing and free to determine their internal management structures, rules for selecting governing officers, internal accountability mechanisms and other internal governance matters" (ACHPR Guidelines, para. 36).

d. Office of the Registrar and collection of fees for registration

The Bill provides that a Registrar of Private Voluntary Organizations, currently the Director of Social Welfare,[8] is responsible for maintaining the public register of PVOs and grants extensive regulatory powers for the proper administration of the Act, including the power to reject an application for registration or "to order removal of a director, trustee, employee or other office bearer of a private voluntary organization" (New Section 22(6)d). The Bill also stipulates that the Registrar and its staff "shall form part of the Public Service". This proposed section also introduces a requirement that each PVO pay a prescribed fee for registration, to be collected by the Registrar.

We are concerned that the Registrar's office forms part of the Public Service, which is under the control of the President. While we recognize that regulatory practice and design depends on each country context, oversight bodies should be designed in a way that can effectively facilitate the rights to freedom of association in a professional, consistent, and apolitical manner. The Special Rapporteur on the rights to freedom of peaceful assembly and of association has stressed that "composition of the supervisory body also needs to be independent from the executive power to ensure its decisions are not arbitrary" (A/HRC/23/39, para 38). Similarly, the ACHPR Guidelines on Freedom of Association and Assembly in Africa state that "matters relating to the oversight of associations shall be overseen, where necessary, by a single body that conducts its functions impartially and fairly."

We also would like to draw your Excellency's Government's attention to the fact that imposing a registration fee might make it difficult and unlikely for certain associations to come into being and become operational. In that regard, the ACHPR Guidelines underscore that while a registration fee may be imposed to cover administration fees, authorities must ensure that "this fee is modest and does not have the effect of deterring associations from registering in practice."

Finally, these requirements regarding registration, which include the abovementioned fee, apply to all types of non-governmental organization, without any discrimination. Such a methodology contravenes both the principle of proportionality required to limit freedom of association and the risk-based approach established by FATF to determine which entities, due to their size, work or equity volume, are truly vulnerable to being used for financing terrorism.

[8] The Registrar's duties are currently performed by the Director of Social Welfare, until an appointment is made (Amendment Bill, Clause 3).

e. Requirements of re-registration

The Amendment Bill introduces new instances that require re-registration of PVOs in relation to material changes that occur, such as "(a) any change in the constitution governing the private voluntary organization concerned happens upon the termination for any reason of the private voluntary organization with respect to the disposal of its assets on the date of its termination; or (b) any change in the ownership or control of the private voluntary organization; or (c) any variation of the capacity of the private voluntary organization to operate as a private voluntary organization."

This re-registration requirement is at odds with international standards and best practice and disproportionately burdensome to the right to freedom of association. The ACHPR Guidelines explicitly stipulate that "Associations shall not be required to register more than once or to renew their registration" (ACHPR Guidelines, para. 17). This is in line with the UN Human Rights Council Resolution 22/6, which calls on States to ensure that "the registration procedure for civil society organizations is transparent, accessible, non-discriminatory, expeditious and inexpensive, provides for the possibility of appeal, avoids the need for renewal of registration" (A/HRC/RES/22/6, para. 8). The Special Rapporteur also emphasized that registration should be optional, not mandatory, and that the right to freedom of association equally applies to associations that are not registered (A/HRC/20/27, para. 56). Moreover, the requirement of re-registration conflicts with the international best practice that "[m]embers of associations should be free to determine their statutes, structure and activities and make decisions without State interference" (A/HRC/20/27, para. 64). It is also contravening the ACHPR Guidelines, which state that "[a]ssociations shall not be required to obtain permission from the authorities to change their internal management structure or other elements of their internal rules" (ACHPR Guidelines, para. 36(b)). These best practices and guidelines are meant to ensure that the right of association is not unduly burdened and stifled by government interference, and to guarantee the existence of a robust and thriving civil society.

Additionally, we observe that there are no criteria, procedural safeguards or judicial oversight provided for in the Bill for the evaluation of such applications, leaving the Registrar broad discretion to reject applications at will (Amendment Bill, Clause 6). The Special Rapporteur on the rights to freedom of peaceful assembly and of association stated, "[a]ny decision rejecting the submission or application must be clearly motivated and duly communicated in writing to the applicant. Associations whose submissions or applications have been rejected should have the opportunity to challenge the decision before an independent and impartial court" (A/HRC/20/27, para. 61). The ACHPR Guidelines state that should a law authorize the government to reject registration, "it must do so on a limited number of clear legal grounds, in compliance with regional and international human rights law" (ACHPR Guidelines, para. 13). The Amendment Bill strays from these recommended standards as it does not provide clear and specific criteria, which the competent authorities can be held to, for when registration will be refused. Thus, it grants the unfettered discretion to authorities to deny legal status to organizations without the possibility of appeal or adequate judicial oversight, thereby threatening the independence and fairness of the process.

f. Prohibition of "supporting or opposing" any political party or candidate in an election

The Bill provides for the cancellation of certificate of registration when the concerned PVO "supports or opposes any political party or candidate in a presidential, parliamentary or local government election or is a party to any breach of […] the Political Parties (Finance) Act as a contributor of funds to a political party or candidate". The Political Party (Financing) Act prohibits foreigners from soliciting funding on behalf of a political party or political candidate.

While under international law, it may be appropriate to regulate the participation of NGOs in fundraising for candidates for public office, the Amendment Bill's terms are overly broad and vague. The Amendment Bill does not specify what constitutes "supporting or opposing any political party." Namely, voter education, highlighting the government's governance and human rights violations, and providing legal representation to political parties or candidates subjected to rights violations could fall into this category. Of particular concern is that the Amendment Bill lacks adequate safeguards to prevent the prohibition from being applied selectively and in a discriminatory manner against organizations that are politically disfavored. The harsh penalties that may result from violating this draft provision unduly exacerbate the risks for civil society, exacerbating a hostile environment for the right to association.

The Special Rapporteur on the rights to freedom of peaceful assembly and of association has underscored that "the right to freedom of association necessarily entails the freedom of associations to decide and engage in activities of their own choosing and this extends to those wishing to engage in election-related activities", including the freedom: (1) to discuss issues of public concern and contribute to public debate; to monitor and observe election processes; (2) to report on human rights violations and electoral fraud; to initiate polls and surveys; to build coalitions and networks with other organizations, including from abroad; (3) to engage in fundraising activities; (4) and to provide any forms of technical assistance and international cooperation (A/68/299, para. 43). In particular, the mandate has emphasized that associations should not be denied registration or subject to cancelation "because they carry out what the authorities consider to be 'political' activities. It is a source of serious concern that the term "political" has been interpreted in many countries in such a broad manner as to cover all sorts of advocacy activities; civic education; research; and more generally, activities aimed at influencing public policy or public opinion" (A/68/299, para. 44). In this connection, we wish to remind your Excellency's Government that the dissolution of an association should always be a measure of last resort, namely when and association has engaged in conduct that creates an imminent threat of violence or other grave violation of the law. However, dissolution shall never be used to address minor infractions (A/HRC/20/27, para. 75).

g. Civil penalties for non-compliance

The Bill introduces new provisions granting power to the Registrar to impose civil penalty orders on non-complying private voluntary organizations. These penalties are in addition to any other criminal or monetary fines imposed under the Act. The Schedule introduces a new procedure by which the Registrar may issue civil penalty orders against a PVO for violating the PVO Act. The burden to demonstrate that the order was issued in error lies in the affected PVO (Amendment Bill, Clause 11).

Under international law, sanctions must be consistent with the principle of proportionality (See UN Human Rights Committee, Korneenko et al. v. Belarus (Communication no. 1274/2004, 31 October 2006), paras. 7.6-7.7.). Accordingly, when deciding whether to apply sanctions, authorities must take care to apply the measure that is the least disruptive and destructive to the right to freedom of association. In this regard, penalties for the late or incorrect submission of reports, or other minor offences, should never be harsher than penalties for similar offences committed by non-PVO entities, such as businesses. In addition, sanctions should be avoided and be replaced by a warning with information on how a violation may be rectified, giving ample time to the association to repair the violation.

h. Other concerns

As we alluded to above, the Amendment Bill in its current form would lack adequate judicial oversight of many of its regulations on PVOs. In her 2013 report to the UN Human Rights Council, the former Special Rapporteur on the rights to freedom of peaceful assembly and of association stated that "[a]ny restrictions [on organizations] should be subject to an independent, impartial, and prompt judicial review" (A/61/267, para. 84(e)). In the Amendment Bill, there is no option to appeal a denial of registration to a neutral decision-maker. Additionally, there is no judicial or parliamentary oversight of the "high risk" designation process which allows for broad discretion and a lack of accountability. In addition, a "successful" appeal to the High Court of a high-risk designation would appear to result in the matter going back to the Minister for reconsideration, potentially without directions on how the decision should be reconsidered. This seemingly lengthy and cumbersome process would be likely to hinder and overly burden an organization's operations.

Finally, there are provisions under the current PVO Act that would not be compliant with international norms and standards but were not revised by the Amendment Bill. In particular, the Amendment Bill retains a registration requirement for PVOs to operate in Zimbabwe. After his visit to Zimbabwe in 2019, the Special Rapporteur on the rights to freedom of peaceful assembly and of association recommended the State to "amend the Private Voluntary Organizations Act in full consultation with civil society and other relevant stakeholders and avoid enacting regressive legislation in the future." In particular, to: (1) adopt a regime of declaration or notification whereby an organization is considered a legal entity as soon as it has notified its existence to the regulating authorities; (2) ensure that the registration procedure for national and international organizations is more simple and expeditious; (3) facilitate the ability of organizations to access funding and resources without interference; (4) and avoid the use of excessive sanctions, particularly incarceration, for omissions in law. Unfortunately, none of these recommendations seem to have been taking into account in the drafting of the Amendment Bill.

In light of the abovementioned concerns, and should they be corroborated, we are seriously concerned that the overall prospective impact of the Amendment Bill, would likely be detrimental to civic space in Zimbabwe.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned issues.

2. Please explain how the Draft Amendment is compatible with the obligations of Your Excellency's Government under articles 19 and 22 of the International Covenant on Civil and Political Rights and FATF Recommendation 8.

3. Please provide information on how the assessment of the threats and vulnerabilities of the NPO sector was carried out and address if such assessment was carried out in line with FATF guidance, including with the proper involvement of the NPO sector.

4. Please provide more detailed information concerning the powers extended to the Minister and Registrar to enforce provisions of the Draft Amendment and safeguards to ensure that measures adopted are necessary and proportionate in a democratic society.

5. Please provide information about the legislative process, its expected timeline, along with efforts to ensure substantive civil society consultation and outreach.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting website after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Clément Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism